

### **23-16-1.1. Definitions.**

As used in this chapter:

- (1) "Cultivated crops" means:
  - (a) crops from or on cleared and planted land; and
  - (b) crop residues that have forage value for livestock.
- (2) "Depredation mitigation plan" means the plan described in Subsection 23-16-3(2).
- (3) "Mitigation review panel" means the panel created under Section 23-16-3.2.

Enacted by Chapter 228, 2003 General Session

### **23-16-2. Removal of big game animals doing damage.**

The director of the division of Wildlife Resources may authorize the removal of big game animals when they are doing actual damage. Animals so removed shall be sold or otherwise disposed of by the Division of Wildlife Resources, and any money derived from the sale of these animals shall be placed in the Wildlife Resources Account.

Enacted by Chapter 46, 1971 General Session

### **23-16-3. Damage to cultivated crops, livestock forage, fences, or irrigation equipment by big game animals -- Notice to division.**

- (1) (a) If big game animals are damaging cultivated crops, livestock forage, fences, or irrigation equipment on private land, the landowner or lessee shall immediately, upon discovery of the damage, request that the division take action to alleviate the depredation problem.
- (b) The landowner or lessee shall allow division personnel reasonable access to the property sustaining damage to verify and alleviate the depredation problem.
- (2) (a) Within 72 hours after receiving the request for action under Subsection (1)(a), the division shall investigate the situation, and if it appears that depredation by big game animals may continue, the division shall:
  - (i) remove the big game animals causing depredation; or
  - (ii) implement a depredation mitigation plan which has been approved, in writing, by the landowner or lessee.
- (b) A depredation mitigation plan may provide for any or all of the following:
  - (i) the scheduling of a depredation hunt;
  - (ii) issuing permits to the landowners or lessees, to take big game animals causing depredation during a general or special season hunt authorized by the Wildlife Board;
  - (iii) allowing landowners or lessees to designate recipients who may obtain a mitigation permit to take big game animals on the landowner's or lessee's land during a general or special season hunt authorized by the Wildlife Board; or
  - (iv) a description of how the division will assess and compensate the landowner or lessee under Section 23-16-4 for damage to cultivated crops, fences, or irrigation equipment.
- (c) (i) The division shall specify the number and sex of the big game animals

that may be taken pursuant to Subsections (2)(b)(ii) and (iii).

(ii) Control efforts shall be directed toward antlerless animals, if possible.

(d) A permit issued for an antlered animal shall be approved by the division director or the director's designee.

(e) The division and the landowner or lessee shall jointly determine the number of animals taken pursuant to Subsection (2)(b)(ii) of which the landowner or lessee may retain possession.

(f) In determining appropriate remedial action under this Subsection (2), the division shall consider:

(i) the extent of damage experienced or expected; and

(ii) any revenue the landowner derives from:

(A) participation in a cooperative wildlife management unit;

(B) use of landowner association permits;

(C) use of mitigation permits; and

(D) charging for hunter access.

(3) Any fee for accessing the owner's or lessee's land shall be determined by the landowner or lessee.

(4) (a) If the landowner or lessee who approved the depredation mitigation plan under Subsection (2)(a)(ii) subsequently determines that the plan is not acceptable, the landowner or lessee may revoke his or her approval of the plan and again request that the division take action pursuant to Subsection (2)(a)(i).

(b) A subsequent request for action provided under Subsection (4)(a) shall be considered to be a new request for purposes of the 72-hour time limit specified in Subsection (2)(a).

(5) (a) The division may enter into a conservation lease with the owner or lessee of private lands for a fee or other remuneration as compensation for depredation.

(b) Any conservation lease entered into under this section shall provide that the claimant may not unreasonably restrict hunting on the land or passage through the land to access public lands for the purpose of hunting, if those actions are necessary to control or mitigate damage by big game.

Amended by Chapter 297, 2011 General Session

### **23-16-3.1. Crop owner authorized to kill animals.**

(1) (a) A landowner or lessee may kill big game animals damaging those cultivated crops on private land if:

(i) it is necessary to protect cultivated crops;

(ii) 72 hours has expired since notice was given pursuant to Subsection 23-16-3(1)(a);

(iii) the landowner or lessee has provided or sent written notice of an intent to kill the big game animal to the nearest regional office;

(iv) the landowner or lessee kills the big game animal within 90 days, or a longer period, if approved, in writing, by the division, after having requested that the division take action to prevent depredation under Subsection 23-16-3(1)(a); and

(v) the killing is not prohibited by Subsection (2)(a) or (3).

(b) Immediately after killing a big game animal under Subsection (1)(a), the

landowner or lessee shall notify the division of the killing.

(c) The carcass of an animal killed under Subsection (1)(a) shall become the property of the division and shall be disposed of by the division.

(d) Any money derived from the sale of animals killed shall be placed in the Wildlife Resources Account created in Section 23-14-13.

(2) (a) The division director may prohibit the killing of big game animals under Subsection (1)(a) if, within 72 hours after a landowner or lessee has requested that the division take action to remove depredating animals, the division:

(i) determines that the restitution value of the big game animal or animals, as established under Section 23-20-4.5, is more than twice the estimated value of the cultivated crops that have been or will be damaged or consumed;

(ii) determines that the prohibition is consistent with the management plan established under Section 23-16-7;

(iii) notifies the landowner or lessee of the prohibition; and

(iv) offers the landowner or lessee a depredation mitigation plan.

(b) A landowner or lessee who is offered a depredation mitigation plan may:

(i) accept the plan in writing; or

(ii) refuse to accept the plan and appeal the plan, in writing, to the division director.

(3) After a landowner or lessee has killed a big game animal under Subsection (1)(a), the division director may prohibit any further killing of big game animals if:

(a) the division takes the actions described in Subsections (2)(a)(i) through (iv); and

(b) the mitigation review panel reviews and approves the depredation mitigation plan.

Enacted by Chapter 228, 2003 General Session

### **23-16-3.2. Mitigation review panel.**

(1) A mitigation review panel may be convened to review the depredation mitigation plans.

(2) Membership of the mitigation review panel shall consist of:

(a) the division director or the director's designee;

(b) (i) the commissioner of the Department of Agriculture and Food or the commissioner's designee; or

(ii) a representative of agricultural interests appointed by the commissioner of the Department of Agriculture and Food; and

(c) a representative of Utah State University Extension Service appointed by the Vice President and Dean for University Extension.

(3) (a) The division director shall convene a mitigation review panel if:

(i) a landowner or lessee appeals a depredation mitigation plan under Subsection 23-16-3.1(2)(b)(ii); or

(ii) the division director requests review of a depredation mitigation plan.

(b) Within five business days of an appeal under Subsection 23-16-3.1(2)(b)(ii) or a division request for review under Subsection 23-16-3.1(3)(b), the mitigation review panel shall review the depredation mitigation plan and approve or modify the plan.

(4) Judicial review of a mitigation review panel action shall be governed by Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

**23-16-4. Compensation for damage to crops, fences, or irrigation equipment -- Limitations -- Appeals.**

(1) The division may provide compensation to claimants for damage caused by big game to:

- (a) cultivated crops from or on cleared and planted land;
- (b) fences on private land; or
- (c) irrigation equipment on private land.

(2) To be eligible to receive compensation as provided in this section, the claimant shall:

- (a) notify the division of the damage within 72 hours after the damage is discovered; and
- (b) allow division personnel reasonable access to the property to verify and alleviate the depredation problem.

(3) (a) The appraisal of the damage shall be made by the claimant and the division as soon after notification as possible.

(b) In determining damage payment, the division and claimant shall consider:

- (i) the extent of damage experienced; and
- (ii) any revenue the landowner derives from:
  - (A) participation in a cooperative wildlife management unit;
  - (B) use of landowner association permits;
  - (C) use of mitigation permits; and
  - (D) charging for hunter access.

(c) In determining how to assess and compensate for damages to cultivated crops, the division's determination shall be based on the:

- (i) full replacement value in the local market of the cultivated crops that actually have been or will be damaged or consumed by big game animals; and
- (ii) cost of delivery of a replacement crop to the location of the damaged crop or other location that is not farther from the source of the replacement crop.

(d) If the claimant and the division are unable to agree on a fair and equitable damage payment, they shall designate a third party, consisting of one or more persons familiar with the crops, fences, or irrigation equipment and the type of game animals doing the damage, to appraise the damage.

(4) (a) Notwithstanding Section 63J-1-504, the total amount of compensation that may be provided by the division pursuant to this section and the total cost of fencing materials provided by the division to prevent crop damage may not exceed the legislative appropriation for fencing material and compensation for damaged crops, fences, and irrigation equipment.

(b) (i) Any claim of \$1,000 or less may be paid after appraisal of the damage as provided in Subsection (3), unless the claim brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of \$1,000.

(ii) Any claim for damage to irrigation equipment may be paid after appraisal of

the damage as provided in Subsection (3).

(c) (i) Any claim in excess of \$1,000, or claim that brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of \$1,000, shall be treated as follows:

(A) \$1,000 may be paid pursuant to the conditions of this section; and

(B) the amount in excess of \$1,000 may not be paid until the total amount of the approved claims of all the claimants and expenses for fencing materials for the fiscal year are determined.

(ii) If the total exceeds the amount appropriated by the Legislature pursuant to Subsection (4)(a), claims in excess of \$1,000, or any claim that brings the total amount of a claimant's claims in a fiscal year to an amount in excess of \$1,000, shall be prorated.

(5) The division may deny or limit compensation if the claimant:

(a) has failed to exercise reasonable care and diligence to avoid the loss or minimize the damage; or

(b) has unreasonably restricted hunting on land under the claimant's control or passage through the land to access public lands for the purpose of hunting, after receiving written notification from the division of the necessity of allowing such hunting or access to control or mitigate damage by big game.

(6) (a) The Wildlife Board shall make rules specifying procedures for the appeal of division actions under this section.

(b) Upon the petition of an aggrieved party to a final division action, the Wildlife Board may review the action on the record and issue an order modifying or rescinding the division action.

(c) A qualified hearing examiner may be appointed for purposes of taking evidence and making recommendations for a board order. The board shall consider the recommendations of the examiner in making decisions.

(d) Board review of final agency action and judicial review of final board action shall be governed by Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 297, 2011 General Session

**23-16-5. Limit of one of any species of big game during license year.**

A person may take only one of any species of big game during a license year, regardless of how many licenses or permits he purchases, except as otherwise provided by this code or proclamations of the Wildlife Board.

Amended by Chapter 211, 1995 General Session

**23-16-6. Commencement date of general rifle deer season.**

The general rifle deer season may not commence each year before October 1.

Amended by Chapter 239, 2008 General Session

**23-16-7. Deer and elk management plans -- Division to confer with others -- Target herd size objectives -- Completion date -- Reports.**

- (1) The Division of Wildlife Resources shall:
  - (a) prepare a management plan for each deer and elk herd unit in the state; and
  - (b) submit the plans to the Wildlife Board for their approval.
- (2) Upon approval of a plan by the Wildlife Board, the herd unit shall be managed in accordance with the plan.
- (3) In preparing the plans, the division shall confer with federal and state land managers, private landowners, sportsmen, and ranchers.
- (4) (a) Each management plan shall establish target herd size objectives.
  - (b) In establishing target herd size objectives, the division and board shall among other factors:
    - (i) consider available information on each unit's range carrying capacity and ownership; and
    - (ii) seek to balance relevant multiple uses for the range.
- (5) Until a management plan for a herd unit is prepared in accordance with this section and approved by the board, the herd unit shall be managed to maintain the herd size as range conditions and available data dictate.
- (6) (a) Management plans shall be prepared by the division and approved by the board by the following dates:
  - (i) May 1, 1994 for elk; and
  - (ii) May 1, 1996 for deer.
- (b) The division shall make:
  - (i) an annual progress report on the management plans to the Energy, Natural Resources and Agriculture Interim Committee until the plans are completed; and
  - (ii) a final report to the committee:
    - (A) at the committee's May 1994 meeting for elk; and
    - (B) at the committee's May 1996 meeting for deer.
- (7) The management plans may be revised as the division or board determines necessary. Any revised plan shall be prepared in accordance with Subsections (3) and (4).

Amended by Chapter 211, 1995 General Session